

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13336, of the Trust of Margaret Weaver, et al., pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 3104.48 to continue the use of a parking lot in an R-2 District at the premises 3831 McKinley Street, N.W., (Square 1860, Lots 5, 6, 7, 17 and 18).

HEARING DATES: September 17, 1980, & December 10, 1980

DECISION DATES: October 1, 1980 and February 4, 1981

FINDINGS OF FACT:

1. The subject property is located on the northeast corner of McKinley and 39th Streets, N.W. It is in an R-2 zone district at premises known as 3831 McKinley Street, N.W.
2. The lot is abutted on its east and north sides by a fifteen foot wide public alley.
3. The subject site is currently operated as a parking facility pursuant to this Board's Order No. 12635, dated June 27, 1978. The lot was established on November 17, 1959, under BZA Order No. 5664.
4. The property is predominantly used as accessory parking for Magruder's Food Store located at 5262 Connecticut Avenue, N.W., at the front of the parking lot. The lot is reasonably necessary to the operation of the food store.
5. The lot also serves various other commercial uses of the adjoining Connecticut Avenue corridor which includes the Avalon Movie Theater, Chevy Chase Bicycle Shop, Washington Federal Savings and Loan and a paint store. All of the above facilities use this parking lot, and are located within 200 feet of the site.
6. The hours of operation for the parking lot are from 8 a.m. to 7 p.m. Monday through Saturday. The lot is operated by a parking attendant.
7. Ingress to the lot is by a driveway directly from McKinley Street. Egress is at the north end of the lot into the fifteen foot public alley, then out to 39th Street.

8. Advisory Neighborhood Commission - 3G, by letter dated September 5, 1980, recommended several conditions for the continued granting of a special exception to operate a parking lot. Those conditions related to maintenance and policing, the flushing of discharges from store operations into the street, repair of damage to neighboring property, and use of the adjoining public alley. The ANC further recommended that the application be approved for a two year period.

9. There was opposition to the continued use of the lot by the owners of businesses fronting on Northampton Street. The rear of those businesses abut the fifteen foot wide alley which adjoins the parking lot on its north side. The opposition objected to the congestion in alley caused by the traffic exiting from the parking lot as well as trucks making deliveries to Magruder's. The opposition also noted that damage had been caused to buildings and fences by trucks using the alley.

10. The D.C. Department of Transportation, by memorandum dated September 15, 1980, reported that significant improvements in traffic circulation, both on and off the site, have been made since the lot had last been approved by the Board. The DOT had worked to improve the situation, and had implemented certain improvements. The DOT recommended that this application be granted for a four or five year period.

11. The Office of Planning and Development, by memorandum dated October 3, 1980, recommended that the continuation of the parking lot be approved for a period of one year. The OPD further recommended that the applicant be encouraged to develop a long-term solution to traffic problems created by the lot, working with neighborhood residents, the ANC, owners of adjoining businesses and the Department of Transportation.

12. At its public meeting held on October 1, 1980, the Board considered and discussed the application, with special reference to the traffic problems caused by use of the alley. The Board directed that a further hearing be held, limited to the problems caused by the use of the alley and whether the layout of the parking lot could be altered to improve the functioning of the alley.

13. By letter dated October 22, 1981, the applicant advised the Board that damage to two adjoining properties had been repaired to the satisfaction of the owners. One of the owners appeared at the further hearing and testified that the proper repairs had been made.

14. The Department of Transportation, by memorandum dated December 18, 1980, addressed the problems caused by the narrow width of the alley at the rear of Magruder's, Inc. The Department's investigation revealed that the fifteen foot alley between 39th and McKinley Streets is too narrow for its current use, and recommended that the applicant dedicate five feet of land adjacent to the alley on both the north and east sides of the lot, with all costs involved to be borne by the applicant. As an alternative, the DOT suggested that the entire parking lot could be shifted five feet to the west. This would encroach on public space and would require appropriate amendments to the Highway and Traffic regulations.

15. Advisory Neighborhood Commission - 3G, by report dated January 23, 1981, did not oppose the existence of the parking lot per se. The ANC found Magruder's to be an asset to the community and the parking facility a requirement of its operation. The concerns of the ANC related to the operation of the lot and the alley congestion created by its current operation pattern. The ANC recommended that no changes be made to the western boundary of the lot, but that the northern alley and exit be widened by approximately four feet and a slanting exit lane from the lot be created. The ANC believed that this would improve the problems associated with the lot and alley to their satisfaction.

16. The applicant, by letter dated January 26, 1981, agreed with the findings of ANC-3G.

17. The Board finds that the appropriate solution to the alley congestion problems is to widen the alley at the north end of the lot. This is the section of the alley used by traffic existing from the parking lot, and is the only section that is impacted by such traffic. Shifting the entire parking lot to the west into public space is appropriate, because it would encroach upon the landscaped area on the west of the lot that minimizes the impact of the lot on the adjoining neighborhood. Reducing the interior width of the parking lot would result in the loss of several parking spaces and the reduction of aisle widths to unacceptable levels. Neither solution is appropriate or necessary.

18. There were letters of support from the other commercial establishments that utilize the lot.

CONCLUSIONS OF LAW AND OPINION:

Based on the above Findings of Fact and the evidence of record, the Board concludes that the application meets the standards for the granting of the requested special exception. The lot is located within 200 feet of an existing commercial district and is separated only by an alley from such commercial district. The subject lot is reasonably necessary and convenient to the neighborhood, and is so located and all facilities thereof are so designed that they are not likely to become objectionable to adjoining or nearby properties because of noise, traffic, or other objectionable conditions, if the conditions to be imposed on this application are met. The Board

concludes that it has given great weight to the issues and concerns of the ANC. Accordingly, it is HEREBY ORDERED that the Application is GRANTED SUBJECT to the following CONDITIONS:

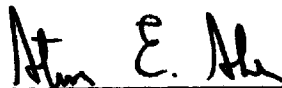
- a. Approval shall be for a period of THREE YEARS from the date of expiration of the previous Certificate of Occupancy, namely until June 27, 1983.
- b. The parking attendant for Magruder's shall assist in keeping the alley clear of vehicles.
- c. The alley and curb cut located at the north end of the lot shall be widened by the addition of four feet now being used as part of the parking lot. The exit lane shall be slanted to the northwest, so as to provide for easier turning movements unto the alley. All costs related to the widening of the alley and curb cut, on public or private space, shall be borne by the applicant.
- d. The parking lot, the retaining wall, and the adjacent landscaping shall be maintained, policed, and kept in prime condition.
- e. No discharges from store operations shall be flushed into the alley or the street.
- f. Damage done by delivery vehicles to sidewalks and neighboring property, shall be repaired promptly by the applicant or his tenant.
- g. The parking attendant shall assist in the movement of traffic from McKinley Street into the parking lot, and shall coordinate with enforcement agencies regarding the traffic regulations existing on McKinley Street.
- h. All areas devoted to driveways, access lanes, and parking areas shall be maintained with a paving of material forming an all-weather impervious surface.
- i. Bumper stops shall be erected and maintained for the protection of all adjoining buildings.
- j. No vehicle or any part thereof shall be permitted to project over any lot or building line or on or over the public space.
- k. All parts of the lot shall be kept free of refuse or debris and shall be paved or landscaped. Landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance. Landscaping plans must be approved by the Department of Highways and Traffic.

1. No other use shall be conducted from or upon the premises and no structure other than an attendant's shelter shall be erected or used upon the premises unless such use or structure is otherwise permitted in the zoning district in which the parking lot is located.
- m. Any lighting used to illuminate the parking lot or its accessory building shall be so arranged that all direct rays of such lighting are confined to the surface of the parking lot.

VOTE: 4-0 (Douglas J. Patton, Charles R. Norris, Connie Fortune and William F. McIntosh to GRANT; John G. Parsons not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:



STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 16 JUL 1981

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OR OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS, AND INSPECTIONS.